

STATE OF SOUTH CAROLINA

(Caption of Case)

Application of Duke Energy Carolinas, LLC for
Approval of New Cost Recovery Mechanism and
Portfolio of Demand-Side Management and Energy
Efficiency Programs

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET

NUMBER: 2013 - 298 - E

(Please type or print)

Submitted by: Stephanie U. RobertsSC Bar Number: 80073Address: 110 Oakwood Drive, Suite 500Telephone: 336.725.4710Winston-Salem, NC 27103Fax: 336.725.4476

Other: _____

Email: sroberts@spilmanlaw.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)☐ Emergency Relief demanded in petition☐ Request for item to be placed on Commission's Agenda expeditiously☐ Other: _____**INDUSTRY (Check one)****NATURE OF ACTION (Check all that apply)**☒ Electric☐ Affidavit☐ Letter☐ Request☐ Electric/Gas☐ Agreement☐ Memorandum☐ Request for Certification☐ Electric/Telecommunications☐ Answer☐ Motion☐ Request for Investigation☐ Electric/Water☐ Appellate Review☐ Objection☐ Resale Agreement☐ Electric/Water/Telecom.☐ Application☐ Petition☐ Resale Amendment☐ Electric/Water/Sewer☐ Brief☐ Petition for Reconsideration☐ Reservation Letter☐ Gas☐ Certificate☐ Petition for Rulemaking☐ Response☐ Railroad☐ Comments☐ Petition for Rule to Show Cause☐ Response to Discovery☐ Sewer☐ Complaint☐ Petition to Intervene☐ Return to Petition☐ Telecommunications☐ Consent Order☐ Petition to Intervene Out of Time☐ Stipulation☐ Transportation☐ Discovery☒ Prefiled Testimony☐ Subpoena☐ Water☐ Exhibit☐ Promotion☐ Tariff☐ Water/Sewer☐ Expedited Consideration☐ Proposed Order☒ Other: Letter and COS☐ Administrative Matter☐ Interconnection Agreement☐ Protest☐ Other:☐ Interconnection Amendment☐ Publisher's Affidavit☐ Late-Filed Exhibit☐ Report



SPILMAN THOMAS & BATTLE, PLLC
ATTORNEYS AT LAW

Stephanie U. Roberts
Direct Dial (336) 631-1062
sroberts@spilmanlaw.com
*Licensed in NC, SC and FL

October 22, 2013

Via SCPSC E-FILING DMS

The Honorable Jocelyn G. Boyd
Chief Clerk/Administrator
Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, SC 29210

Re: Application of Duke Energy Carolinas, LLC for Approval of New Cost Recovery Mechanism and Portfolio of Demand-Side Management and Energy Efficiency Programs; Docket No. 2013-298-E

Dear Ms. Boyd:

Please find attached for electronic filing with the South Carolina Public Service Commission ("Commission") a copy of the Direct Testimony and Exhibits of Kenneth E. Baker on behalf of Wal-Mart Stores East, LP, and Sam's East, Inc. (collectively, "Walmart"), in the above-referenced matter. By copy of this letter, I am serving all parties of record via Electronic Mail and First Class Mail.

Please contact us if you have any questions concerning this filing.

Sincerely,

SPILMAN THOMAS & BATTLE, PLLC

By

Stephanie U. Roberts
(SC Bar No. 80073)

Derrick Price Williamson
Spilman Thomas & Battle, PLLC
1100 Bent Creek Boulevard, Suite 101
Mechanicsburg, PA 17050
dwilliamson@spilmanlaw.com

Counsel to Wal-Mart Stores East, LP, and Sam's East, Inc.

SUR/lhi
Attachments
c: Certificate of Service

Suite 500 | 110 Oakwood Drive | Winston-Salem, North Carolina 27103
www.spilmanlaw.com | 336.725.4710 | 336.725.4476 fax

West Virginia North Carolina Pennsylvania Virginia

STATE OF SOUTH CAROLINA
BEFORE THE PUBLIC SERVICE COMMISSION
DOCKET NO. 2013-298-E

IN RE:

Application of Duke Energy Carolinas, LLC)
For Approval of New Cost Recovery)
Mechanism and Portfolio of Demand-Side)
Management and Energy Efficiency Programs)

DIRECT TESTIMONY AND EXHIBITS OF KENNETH E. BAKER
ON BEHALF OF
WAL-MART STORES EAST, LP AND SAM'S EAST, INC.

Dated: October 2013

1 **Q. Please state your name and business address.**

2 A. My name is Kenneth E. Baker. My business address is 2001 SE 10th Street, Bentonville,
3 AR 72716-0550.

4 **Q. By whom are you employed and what is your position?**

5 A. I am employed by Wal-Mart Stores, Inc. as Senior Manager of Sustainable Regulation.

6 **Q. Please describe your education and professional experience.**

7 A. In 1985, I received my B.S. degree in Health Science from College of St. Frances and
8 later attended law school at the University of Arkansas at Little Rock School of Law,
9 graduating in 1992 with a J.D. degree. I then practiced law at the Center for Arkansas
10 Legal Services from 1992 to 1999 prior to joining Walmart. Early in my career at
11 Walmart, I held the position of Manager of Real Estate where I helped locate sites
12 for distribution centers. My duties in this position included locating sites and negotiating
13 with communities to build distribution centers. In 2006, I transferred to the Energy
14 Department and am currently the Senior Manager for Sustainable Regulation and
15 Legislation. My current duties include monitoring and participation in utility
16 commission cases and monitoring legislation that primarily deals with policy matters that
17 could potentially impact Walmart business. I have also been involved in the negotiation,
18 drafting, and execution of renewable energy and energy efficiency contracts.

19 **Q. On whose behalf are you testifying?**

20 A. I am testifying on behalf of Wal-Mart Stores East, LP and Sam's East, Inc. (collectively
21 "Walmart").

1 **Q. Was this testimony prepared by you or under your direction?**

2 A. Yes.

3 **Q. Have you previously testified before the Public Service Commission of South**
4 **Carolina?**

5 A. Yes. I have submitted testimony in Docket No. 2005-386-E, Petition of the Office of
6 Regulatory Staff to Establish Dockets to Consider Implementing the Requirements of
7 Section 1252 (Smart Metering) of the Energy Policy Act of 2005, and in Docket No.
8 2013-208-E, Application of South Carolina Electric & Gas Company for Approval to
9 Continue DSM Programs, etc.

10 **Q. Have you previously submitted testimony before other state regulatory**
11 **commissions?**

12 A. I have submitted testimony before the Commissions in Missouri, North Carolina, New
13 Mexico, Massachusetts, Arizona, Georgia, and Indiana. Additionally, I have submitted
14 testimony before legislative committees in Texas and Pennsylvania. My testimony has
15 included topics concerning demand response, demand side management measures, and
16 renewable energy issues. *See* Exhibit KEB-1.

17 **Q. What impact does Walmart have on the South Carolina economy?**

18 A. As of July 31, 2013, Walmart has over 75 facilities and over 29,000 associates in South
19 Carolina. Additionally, as of fiscal year ending 2013, Walmart spent over \$1.2 billion
20 for merchandise and services with South Carolina suppliers, supporting over 20,000
21 supplier jobs in the state. *See* [http://corporate.walmart.com/our-story/locations/united-](http://corporate.walmart.com/our-story/locations/united-states)
22 [states.](http://corporate.walmart.com/our-story/locations/united-states)

1 **Q. What is the purpose of your testimony?**

2 A. In this testimony, I respond to the Application of Duke Energy Carolina, LLC ("Duke
3 Energy" or "Company") for Approval of New Cost Recovery Mechanism and Portfolio of
4 Demand-Side Management ("DSM") and Energy Efficiency ("EE") Programs.

5 **Q. Is Walmart a customer of Duke Energy?**

6 A. Yes, Walmart has approximately 25 facilities in South Carolina that are served by Duke
7 Energy, including Walmart Supercenters, Sam's Clubs, and gas stations. Walmart
8 purchases over 100 million kWh annually from Duke Energy principally under Rate
9 Schedule OPT.

10 **Q. Please summarize your testimony.**

11 A. My testimony briefly describes the pro-active steps Walmart has taken to reduce demand
12 and increase energy efficiency at all of our facilities, including facilities on the Duke
13 Energy system. I also discuss the advantages of allowing commercial customers the
14 opportunity, should they decide to do so, to implement their own demand management
15 and energy conservation measures and to then be entitled to "opt- out" of the Company's
16 DSM and EE program. Finally, I propose an opt-out mechanism that could be applied to
17 Duke Energy's DSM and EE programs that is patterned after its affiliate's – Duke Energy
18 Progress ("DEP") – mechanism previously approved by this Commission. Namely, I
19 propose that specific, well delineated annual usage be used as a benchmark for the
20 qualification of large retail commercial customers to opt-out.

Walmart's Demand Reduction and Energy Conservation Program

Q. Does Walmart have a plan for reducing its demand and conserving energy at its facilities?

A. Yes. First, Walmart will scale renewables and drive the production or procurement of seven billion kWh of renewable energy globally by December 31, 2020 – an increase of over 600 percent compared to 2010. Second, Walmart will accelerate energy efficiency. By December 31, 2020, our goal is to reduce the kWh/sq. ft. energy intensity required to power our buildings around the world by 20 percent compared to 2010.

Q. Describe some of the measures Walmart has used, and will use in the future, to implement its plan for reducing demand and conserving energy?

A. All of Walmart's United States stores, including those in South Carolina, are centrally monitored through an energy management system installed in each facility. Through this system, Walmart has the ability to centrally monitor and control store temperature, lighting, and refrigeration units. This energy management system, in combination with its advanced metering system, also allows Walmart to efficiently implement demand response commands. As a result, Walmart currently participates in at least twelve utility and ISO/RTO demand response programs nationwide.

Q. Can you provide specific examples of Walmart's deployment of EE and DSM technology?

A. Yes. Walmart has deployed a number of energy saving technologies, including:

- 1) Sub-metering systems in approximately 1,650 of our facilities in the United States and 375 United Kingdom facilities;

- 2) Daylight harvesting systems, in which lighting intensity automatically adjusts given the amount of incoming daylight from skylights;
- 3) Highly efficient HVAC units that exceed the most stringent energy code in the United States;
- 4) White membrane roofs in certain parts of the country that lower cooling load;
- 5) Heat reclamation from our refrigeration equipment to meet approximately seventy percent of the hot water needs of our Supercenters;
- 6) T8 and LED lighting; and,
- 7) Active dehumidification that enables stores to operate at higher temperatures and use less electricity.

Walmart has deployed a majority of the energy efficiency and conservation measures listed above in its South Carolina stores.

Duke Energy's Opt-Out Criteria

Q. What is your understanding of Duke Energy's current and proposed eligibility guidelines for qualifying to opt-out of its DSM/EE programs?

A. It is my understanding, based on a review of the Company's initial and Amended Application and related testimony, that "current opt-out provisions" are proposed to continue. *See, e.g.,* Amended Application, ¶9. Duke Energy witness Timothy Duff addressed the current process and eligibility criteria in his initial Direct Testimony, explaining that non-residential customers eligible to opt-out are those "customers served under an electric service agreement where the establishment is classified as a 'manufacturing industry' by the Standard Industrial Classification Manual" Initial Direct Testimony of Timothy J. Duff, p. 40, n. 3. In turn, only customers on rate

schedules I, OPT, HP, PG, MP, GB, and IT are eligible to opt-out if these customers fall within the Standard Industrial Classification ("SIC") code for manufacturing. *Id.*; see also Amended Application, McManus Revised Exhibit 5, p. 3 of 4.

Q. Does Walmart qualify to opt-out under Duke Energy's current criteria?

A. No. Although Walmart has several facilities on Rate Schedule OPT, because Walmart does not fall within a "manufacturing" SIC code, it cannot opt-out.

Q. Does Walmart believe that the Duke Energy methodology is the correct way to decide who can qualify for and benefit from the opt-out?

A. No, it is too limited.

Q. Please explain.

A. The method is limiting and unreasonable for at least two key reasons. First, using only select SIC and NAICS *manufacturing* codes is arbitrary. Walmart is similar to or larger than many large industrial customers in terms of its collective energy usage at multiple facilities on the Duke Energy system, yet Walmart does not qualify for the opt-out under the current criteria. Further, while there may sometimes be differences in the loads of those customers included in the above cited group, there also is likely a large range in the knowledge and experience the individual qualifying customers have in the area of DSM and EE. Thus, the method utilized by Duke Energy unreasonably limits the array of customers who may qualify to opt-out without a true nexus to their DSM/EE capabilities. Second, the method used by Duke Energy is unreasonable to the extent it excludes companies like Walmart who have proactively performed their own energy efficiency for some time. Walmart continues to pay Duke Energy DSM/EE charges, despite continuing with its own aggressive DSM and EE projects and applications, using its own resources.

1 Large commercial customers like Walmart that are committed to DMS and EE should be
2 treated fairly and have an opportunity to opt-out in acknowledgement of the investments
3 in DSM/EE they make at their own expense.

4 **Q. Why would Walmart consider opting out of the Company's DSM and EE**
5 **programs?**

6 A. Large commercial customers like Walmart, who best understand their unique business
7 operations, are able to create programs tailored to maximize the impact of the EE and
8 DSM measures installed in their facilities. Additionally, due to the size and scope of the
9 measures they can implement, these customers can benefit from the competitive
10 marketplace for energy efficiency goods and services, as energy service companies
11 compete to provide the most innovative and cost-effective products to those customers on
12 a regional and national basis. Finally, the individual customer assumes all of the risk of
13 the investment (such as the risk that the installed measure will in fact conserve and
14 reduce energy use), as opposed to having that risk passed onto other ratepayers. Thus,
15 the customer has every incentive to ensure that the implemented measures are cost-
16 effective, and as a result, both the individual large customer as well as the Company's
17 other customers benefit. This truly is an efficient market-based approach.

18 **Q. How do DMS and EE measures implemented by an individual customer on its own**
19 **yield network benefits for Duke Energy's other customers?**

20 A. A customer, whether commercial or industrial, that implements DSM and EE measures
21 on its own yields network benefits for all of the utility's other customers. These network
22 benefits include reduced overall energy costs that result from the reduced load and
23 demand of the customer on the system. An additional network benefit is the increased

1 system reliability that results in reducing system loss from the commercial customers'
2 reduced energy demand. Other utility customers enjoy all of the network benefits
3 without having to fund such measures through their rates or additional recovery riders.
4 Essentially, those large customers who have undertaken their own conservation and
5 energy efficiency programs *provide these benefits to all other customers at no cost to*
6 *those customers.*

7 **Q. What opt-out mechanism does Walmart recommend the Commission approve for**
8 **Duke Energy?**

9 A. Walmart recommends that the Commission adopt the Duke Energy Progress opt-out
10 mechanism for Duke Energy. The DEP opt-out mechanism is a workable, fair,
11 reasonable, and equitable method of instituting a functional opt-out program for large
12 commercial customers, and it has already been approved as reasonable by this
13 Commission. Duke Energy should modify its tariff to include language similar to that of
14 its affiliate in DEP RIDER DSM/EE-5, which requires the following:

15 Demand Side Management/Energy Efficiency "Opt-Out"
16 Option

17
18 Commercial Customers with annual consumption of
19 1,000,000 kWh or greater in the billing months of the prior
20 calendar year and all industrial customers may elect not to
21 participate in the Company's demand side management and
22 energy efficiency programs by notifying Company of the
23 customer's election in writing. Any Customer that elects
24 this option will be exempt from the annual rider. For
25 purposes of application of this option, a Customer is defined
26 to be a metered account billed under a single application of a
27 Company rate tariff. For commercial accounts, once one
28 account meets the opt-out eligibility requirement, all other
29 accounts billed to the same entity with lesser annual usage
30 located on the same or contiguous properties are also
31 eligible to opt-out of the DSM/EE Rider. Since these rates

are included in the rate tariff charges, Customers electing this option shall receive the following DSM/EE Credit on their monthly bill statement...." *See* Exhibit KEB-2 (Tariff Sheet).

Q. In what way would adoption of this mechanism satisfy Walmart's concerns?

A. As I noted above, Walmart is committed to investment in DSM and EE in seeking to effectuate significant energy savings by the end of this decade. Walmart's efforts in that regard will not only fulfill Walmart's goals, but they have the effect of benefiting other ratepayers. At the same time, however, Walmart does not believe it reasonable or appropriate for it to also pay for DSM and EE programs that do not expressly benefit Walmart given Walmart's substantial, independent investment in its own measures. Adoption of a DEP-type mechanism would provide Walmart with a reasonable means to opt-out and thereby avoid it having to essentially pay twice for DSM and EE program measures.

Q. Are there other reasons why it makes sense to adopt the DEP criteria?

A. Yes. With its Amended Application, Duke Energy indicated in supporting testimony that it was proposing revisions "consistent with the Agreement and Stipulation of Settlement" achieved in North Carolina and filed with the North Carolina Utilities Commission on August 19, 2013. Amended Application Supporting Testimony of Timothy J. Duff, p. 2, line 18 to p. 3, line 3. Duke Energy noted further that its proposed revisions here would create more consistency as between North Carolina and South Carolina because "[t]he Company expects that the interveners' concerns in North Carolina are the same or very similar to their concerns and issues in South Carolina" *See id.*, p. 3, lines 8-10.

1 It bears noting, however, that despite the Company's claimed desire for consistency, the
2 North Carolina Agreement and Stipulation of Settlement ("North Carolina Settlement")
3 includes opt-out qualifications for large commercial customers that mirror the DEP opt-
4 out qualifications (*see* Exhibit KEB-3 (North Carolina Settlement, extract, pp. 1, 12-13,
5 ¶¶ 34-37)), but Duke Energy has not proposed to adopt those large commercial customer
6 opt-out criteria in this case. In other words, Duke Energy is proposing to maintain opt-
7 out criteria in this case that are inconsistent with the criteria agreed upon in North
8 Carolina and utilized by its sister utility – DEP – here in South Carolina. That is illogical
9 and perpetuates the unfairness of Duke Energy's current, more narrow opt-out
10 qualification criteria. The Commission should direct Duke Energy to implement the
11 large commercial customer opt-out criteria that Duke Energy agreed to in North Carolina
12 and that its affiliate already utilizes in South Carolina.

13 **Q. Does this conclude your Direct Testimony?**

14 **A.** Yes.

STATE OF SOUTH CAROLINA
BEFORE THE PUBLIC SERVICE COMMISSION
DOCKET NO. 2013-298-E

IN RE:

Application of Duke Energy Carolinas, LLC)
For Approval of New Cost Recovery)
Mechanism and Portfolio of Demand-Side)
Management and Energy Efficiency Programs)

EXHIBITS OF KENNETH E. BAKER

ON BEHALF OF

WAL-MART STORES EAST, LP AND SAM'S EAST, INC.

STATE OF SOUTH CAROLINA
BEFORE THE PUBLIC SERVICE COMMISSION
DOCKET NO. 2013-298-E

IN RE:

Application of Duke Energy Carolinas, LLC)
For Approval of New Cost Recovery)
Mechanism and Portfolio of Demand-Side)
Management and Energy Efficiency Programs)

EXHIBIT___KEB-1 OF KENNETH E. BAKER

ON BEHALF OF

WAL-MART STORES EAST, LP AND SAM'S EAST, INC.

<i>JURISDICTION</i>	<i>TOPIC</i>	<i>DOCKET NOS.</i>
Arizona	Renewable Energy Standard	Docket Nos. E-01345A-10-0394; E-0134A-12-0290; E-01933A-12-0296; E-04204A-12-0297
Arkansas	Energy Efficiency, Self-Direct	Docket Nos. 10-100-R; 10-101-R
Georgia	IRP	Docket Nos. 36498; 36499
Indiana	Energy Efficiency, Self-Direct	Cause No. 43580
Massachusetts	Forward Capacity Market	Docket No. D.P.U. 08-8
Missouri	DSM	Cause No. EO-2012-009
New Mexico	Renewable Portfolio Procurement Plan	Case Nos. 10-00199-UT; 10-00373-UT
New Mexico	Energy Efficiency	Case No. 10-00280-UT
South Carolina	Smart Grid	Docket No. 2005-386-E
South Carolina	DSM/EE	Docket No. 2013-208-E

STATE OF SOUTH CAROLINA
BEFORE THE PUBLIC SERVICE COMMISSION
DOCKET NO. 2013-298-E

IN RE:

Application of Duke Energy Carolinas, LLC)
For Approval of New Cost Recovery)
Mechanism and Portfolio of Demand-Side)
Management and Energy Efficiency Programs)

EXHIBIT ___KEB-2 OF KENNETH E. BAKER

ON BEHALF OF

WAL-MART STORES EAST, LP AND SAM'S EAST, INC.

Duke Energy Progress, Inc.
(South Carolina Only)

RR-5

DEMAND SIDE MANAGEMENT AND ENERGY EFFICIENCY
RIDER DSM/EE-5

APPLICABILITY

The rates shown below are included in the MONTHLY RATE provision in each schedule identified in the table below:

Rate Class	DSM/EE Rate
Residential Applicable to Schedules: RES, R-TOUD & R-TOUE	0.560¢/kWh
Small General Service Applicable to Schedules: SGS, TSS & TFS	0.265¢/kWh
Medium General Service Applicable to Schedules: MGS, SGS-TOU, SI, SGS-TES, CSG, CSE, GS & Rider SS (less than 1 MW)	0.265¢/kWh
Large General Service Applicable to Schedules: LGS, LGS-TOU, LGS-CUR-TOU, LGS-RTP and Rider SS (1 MW and greater)	0.265¢/kWh
Lighting Applicable to Schedules: ALS, SLS, SLR & SFLS	0.000¢/kWh

The Demand Side Management/Energy Efficiency (DSM/EE) Rate is adjusted annually to reflect the costs and incentives associated with demand side management and energy efficiency measures and programs approved by the Public Service Commission of South Carolina.

Demand Side Management/Energy Efficiency "Opt-Out" Option

Commercial customers with annual consumption of 1,000,000 kWh or greater in the billing months of the prior calendar year and all industrial customers may elect not to participate in Company's demand side management and energy efficiency programs by notifying Company of the customer's election in writing. Any Customer that elects this option will be exempt from the annual rider. For purposes of application of this option, a Customer is defined to be a metered account billed under a single application of a Company rate tariff. For commercial accounts, once one account meets the opt-out eligibility requirement, all other accounts billed to the same entity with lesser annual usage located on the same or contiguous properties are also eligible to opt-out of the DSM/EE Rider. Since these rates are included in the rate tariff charges, Customers electing this option shall receive the following DSM/EE Credit on their monthly bill statement:

$$\text{DSM/EE Rate Credit} = \text{Billed kWh times DSM/EE Rate}^*$$

* The DSM/EE Rate shall be as shown in the above table for the schedule applicable to Customer's monthly bill.

Following the December bill each year, usage for commercial accounts electing to "opt-out" of the DSM/EE rate shall be reviewed and the customer shall be notified and removed from the "opt-out" option if annual consumption is less than 1,000,000 kWh in the prior twelve months.

SALES AND FRANCHISE TAX OR PAYMENT IN LIEU THEREOF

To the above charges will be added any applicable South Carolina sales tax, and for those customers within any municipal or other local governmental jurisdiction, an appropriate amount to reflect any franchise fee, business license tax, or similar percentage fee or tax, or charge in lieu thereof imposed by such entity.

GENERAL

Service rendered under this Schedule is subject to the provisions of the Service Regulations of the Company on file with the state regulatory commission.

Supersedes Rider DSM/EE-4

Effective for bills rendered on and after July 1, 2013

SCPSC Docket No. 2013-76-E, Order No. 2013-469

STATE OF SOUTH CAROLINA
BEFORE THE PUBLIC SERVICE COMMISSION
DOCKET NO. 2013-298-E

IN RE:

Application of Duke Energy Carolinas, LLC)
For Approval of New Cost Recovery)
Mechanism and Portfolio of Demand-Side)
Management and Energy Efficiency Programs)

EXHIBIT __ KEB-3 OF KENNETH E. BAKER

ON BEHALF OF

WAL-MART STORES EAST, LP AND SAM'S EAST, INC.

OFFICIAL COPY

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

FILED**AUG 19 2013**

Clerk's Office
N.C. Utilities Commission

DOCKET NO. E-7, SUB 1032

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Duke Energy Carolinas, LLC, for)
Approval of New Cost Recovery Mechanism and) **STIPULATION**
Portfolio of Demand-Side Management and) **AND AGREEMENT**
Energy Efficiency Programs)

Duke Energy Carolinas, LLC (Duke Energy Carolinas or the Company); the North Carolina Sustainable Energy Association (NCSEA); the Environmental Defense Fund (EDF); the Southern Alliance for Clean Energy (SACE), the South Carolina Coastal Conservation League (CCL), the Natural Resources Defense Council (NRDC), and the Public Staff, collectively referred to as the Stipulating Parties, through counsel and pursuant to G.S. 62-69, respectfully submit the following Agreement and Stipulation of Settlement (Stipulation) for consideration by the North Carolina Utilities Commission (Commission) in the above-captioned docket.

The Stipulating Parties hereby agree and stipulate as follows:

1. BACKGROUND

A. On March 6, 2013, Duke Energy Carolinas filed an application (Application) in Docket No. E-7, Sub 1032, for approval of a new demand-side management (DSM) and energy efficiency (EE) cost recovery mechanism and portfolio of new DSM and EE programs, pursuant to G.S. 62-133.9 and Rules

which the study participation sample for the EM&V was completed. This EM&V will then continue to apply and be considered actual results until it is superseded by new EM&V results, if any.

33. EM&V for the Non-Residential SmartSaver Custom Rebate Program does not apply retrospectively and this program shall be trued up based on the actual participants and actual projects undertaken.

Opt-Outs for Industrial Customers and Certain Commercial Customers

34. Pursuant to Commission Rule R8-69(d), commercial customers with annual consumption of 1,000,000 kWh or greater in the billing months of the prior calendar year and all industrial customers may, by meeting certain requirements, elect not to participate in DSM/EE measures for which cost recovery is allowed through the DSM/EE rider and the DSM/EE EMF rider. For purposes of application of this option, a customer is defined as a metered account billed under a single application of a Company rate tariff. For commercial accounts, once one account meets the opt-out eligibility requirement, all other accounts billed to the same entity with lesser annual usage located on the same or contiguous properties are also eligible to opt out of the DSM/EE rider and the DSM/EE EMF rider.

35. Pursuant to the Commission's Orders in Docket No. E-7, Sub 938, eligible non-residential customers may opt out of either or both of the DSM and EE categories of programs for one or more vintage years, as well as opt back into either or both the categories for a later vintage year. If a customer opts back

into the DSM category, it cannot opt out again for three years; however, a customer has the freedom to opt in or out of the EE category for each vintage year. Additionally, if a customer opts out of paying the Rider for a vintage year after one or more in which the customer was "opted in"; the Company can charge the customer subsequent DSM/EE and DSM/EE EMF Riders only for those vintage years in which the customer actually participated in a DSM/EE program.

36. Eligible customers may opt out of the Company's EE or DSM programs each calendar year during the annual two-month enrollment period between November 1 and December 31 immediately prior to a new DSM/EE rider becoming effective on January 1. Eligible new customers have sixty days after beginning service to opt out.

37. In addition to the two month opt out period between November 1 and December 31 prior to the new DSM/EE rider becoming effective, during the first week of March (5 business days), customers who have previously opted out may elect to opt in and participate in EE and/or DSM programs during the remainder of the vintage year. Any customer choosing to opt in during the March window would be back-billed for the rider amount that they would have paid had they chosen to participate during the November/December enrollment period.

Collaborative

38. Duke Energy Carolinas will continue to conduct quarterly collaborative stakeholder meetings for the purpose of collaborating on new program ideas, reviewing modifications to existing programs, ensuring an accurate public understanding of the programs and funding, reviewing the EM&V

STATE OF SOUTH CAROLINA
BEFORE THE PUBLIC SERVICE COMMISSION
DOCKET NO. 2013-298-E

IN RE:

Application of Duke Energy Carolinas, LLC)
For Approval of New Cost Recovery)
Mechanism and Portfolio of Demand-Side)
Management and Energy Efficiency Programs)

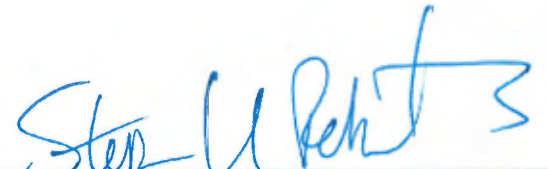
CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing Direct Testimony and Exhibits of Kenneth E. Baker upon the following parties to this proceeding via Electronic Mail and First Class Mail:

J. Blanding Holman, IV, Esq.
Southern Environmental Law Center
43 Broad St., Suite 300
Charleston, SC 29401
bholman@selcsc.org
*Counsel for South Carolina Coastal
Conservation League, Southern
Alliance for Clean Energy, The Natural
Resources Defense Council, and the Sierra
Club*

Timika Shafeek-Horton, Esq.
Duke Energy Carolinas, LLC
P.O. Box 1006/EC03T
Charlotte, NC 28201
timika.shafeek-horton@duke-energy.com
Counsel for Duke Energy Carolinas, LLC

Courtney D. Edwards, Esq.
Shannon B. Hudson, Esq.
Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, SC 29201
cedwards@regstaff.sc.gov
shudson@regstaff.sc.gov
Counsel for Office of Regulatory Staff



Stephanie U. Roberts (SC Bar No. 80073)

Dated: October 22, 2013